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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,664	12/04/2000	Steven R. Kursh	2910.1000-001	6351
21005	7590	01/13/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			ARMSTRONG, ANGELA A	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,664

Applicant(s)

KURSH, STEVEN R.

Examiner

Angela A. Armstrong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The filing of 23 August 2004 was entered to the following effect:
Claims 1, 18, 15, and 17 were amended as indicated and examined on the merits.

Claim Objections

2. Claims 1 and 8 are objected to because of the following informalities:
Claims 1 and 8 contain the negative term "free of" which suggests that an element is being subtracted. This is improper, and should be corrected by redrafting the claim, or the earlier claim being limited. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Stimson et al & Gorog

5. Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimson et al (U.S. Patent 5,577,109 A) in view of Gorog (U.S. Patent 4,947,028 A).

6. Regarding claims 1 and 8 as understood by the Examiner, Stimson et al, with the invention for a pre-paid card system and method, reads on the claim for maintaining accounting data as follows:

Stimson et al read on the step of (a) providing a database for storing desired accounting data (column 2 lines 25-29 - see column 5 line 49);

Stimson et al read on the step of (b) using an automated voice interface to the database during a telephone call, for spoke communication by a user (col. 4, lines 57-64) over a communication Line, prompting the user to enter accounting data primarily by speaking into a phone connected to the telephone call using natural language speech utterances instead of keyboarding (column 4 lines 57-64) and in a manner free of the user logging onto a global network and free of intermediate transfer of data by the user, the voice interface receiving audible signals indicative of words spoken by the user into the phone in response to said prompting (column 5 lines 43- 64, where no mention is made of either logging on or intermediate data transfer);

Stimson et al read on the feature where said prompting includes at least one of

- (i) initiating a first call to the user,
- ii) asking the user to confirm information and

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(iii) prompting for information one data point at a time such that the step of prompting provides an exchange of information between the user and the database (see column 5 lines 48, 55, column 6 lines 14-16, etc);

Stimson et al read on the step of (c) obtaining from the received audible signals certain accounting data corresponding to the words spoken by the user into the phone (column 5 Line 48 - see column 4 lines 57-64).

Stimson et al does not mention storing accounting data. Gorog, with the invention for automated order and payment, reads on the step of (d) storing the obtained certain accounting data in the database (column 2 lines 54-55- see column 3 lines 45-62). It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Gorog to the device/method of Stimson et al so as to allow individuals with visual and mobility disabilities, to place orders, pay for and receive merchandise.

Stimson et al read on the step of (e) serving an individually targeted message to the user through the phone over the communication Line (column 5 lines 60-64).

7. Regarding claims 2 and 9; the claims are set forth with the same limits as claims 1 and 8, respectively. Additionally, Stimson et al reads on the feature that the communication Line is a wireless or land telephone network (column 2 lines 41-42; col. 4, lines 57-64).

8. Regarding claims 3 and 10; the claims are set forth with the same limits as claims 1 and 8, respectively. Additionally, Stimson et al reads on the feature that the automated

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voice interface is computer implemented, (column 2 lines 41-42).

Stimson et al, Gorog & Skinner et al

9. Claims 4-6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimson et al in view of Gorog and further in view of Skinner et al (U.S. Patent No. 6,185,514 B1).

10. Regarding claims 4 and 11; the claims are set forth with the same limits as claims 1 and 8, respectively. While Stimson et al provides the ability to review data to merchants, neither Stimson et al nor Gorog stipulate peer review by users. Skinner et al (column 4 lines 58-63) reads on the feature of automatically providing accounting data stored in the database to another user. It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Skinner et al to the device/method of Stimson et al & Gorog to provide information to other using individuals for review, approval and accounting.

11. Regarding claims 5 and 12; the claims are set forth with the same limits as claims 4 and 11, respectively. Where Stimson et al discloses providing financial data to a merchant, Stimson et al & Gorog do not clearly indicate that this is automatic. Skinner et al (column 4 lines 58-63) read on the feature that the step of automatically providing includes providing the accounting data as a function of predefined rules. It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings

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of Skinner et al to the device/method of Stimson et al & Gorog to restrict access to authorized individuals.

12. Regarding claims 6 and 13; the claims are set forth with the same limits as claims 1 and 8, respectively. Stimson et al & Gorog do not include workflow tracking. Skinner et al reads on the feature that desired accounting data includes length of time (as in column 5 Line 8), dates (column 13 Line 12), project identifier (column 5 line 18), type of expense (column 20 lines 4-5), and that the data base stores desired accounting data in corresponding data fields (1706 in figure 17). It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Skinner et al to the device/method of Stimson et al & Gorog to deduce the time of an operator from recorded equipment use.

Stimson et al, Gorog & Sprague et al

13. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimson et al in view of Gorog and further in view of Sprague et al (U.S. Patent 5,247,575 A).

14. Regarding claims 7 and 14; the claims are set forth with the same limits as claims 1 and 8, respectively. Stimson et al & Gorog do not mention providing reports remotely. Sprague et al (column 18 lines 12-15) provides the support for the capability (column 18 lines 49-50) that reads on the feature of retrieving accounting data from the database using the automated voice interface (of column 10 line 38). It would have been obvious to a person of ordinary skill in the

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art of speech signal processing at the time of the invention to apply the method/teachings of Sprague et al to the device/method of Stimson et al & Gorog that would provide management status on a timely basis by eliminating the delay for scheduled paper report delivery.

Stimson et al, Gorog & Gomyo et al

15. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimson et al in view of Gorog and further in view of Gomyo et al (U.S. Patent No. 5,930,772 A).

16. Regarding claims 15 and 17; the claims are set forth with the same limits as claims 1 and 8, respectively. Stimson et al & Gorog does not speak to foreign language translation. Gomyo et al (column 12 Line 65 to column 13 line 3) reads on the feature of translating between languages. It would have been obvious to a person of ordinary skill in the art of speech signal processing at the time of the invention to apply the method/teachings of Gomyo et al to the device/method of Stimson et al to conserve space by not storing the same data redundantly, for a number of languages.

Response to Arguments

17. Applicant's arguments filed August 23, 2004 have been fully considered but they are not persuasive.

18. Applicant argues the Stimson et al patent would not be relevant or applicable for a traveling businessperson who places a phone call to his place of business to report travel expenses. Additionally, applicant argues, the Stimson et al. patent does not provide for "business rules", that, for example, instruct the system to call the user or groups of users at

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specific times to encourage them to submit data." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., business rules to instruct the system to call a traveling businessperson to remind her to report travel expenses) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues Stimson et al does not teach the storage and manipulation of accounting data in a database using an automated voice interface that prompts the user to enter accounting data primarily by speaking (i.e., in natural language speech utterances). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this instance, Gorog was cited for teaching a system for automated order and payment, which reads on the step of "(d) storing the obtained certain accounting data in the database" (column 2 lines 54-55; column 3 lines 45-62).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would recognize the advantages of applying the

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teachings of Gorog to the system of Stimson so as to allow individuals with visual and/or mobility disabilities to place orders and to pay for and receive merchandise.

In response to applicant's argument that the Stimson et al patent would not be relevant or applicable for a traveling businessperson who places a phone call to his place of business to report travel expenses, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Angela A. Armstrong
Examiner
Art Unit 2654

AAA
January 6, 2005


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER